

TCEQ Interoffice Memorandum

To: Chief Clerk

Thru: Iliana Delgado, Team Leader, Water Rights Permitting Team

From: Ron Ellis, Project Manager, Water Rights Permitting Team

Date: January 7, 2011

Subject: City of Lubbock
WRPERM 3985
CN600130736, RN104271457
Application No. 4340A for an Amendment to Water Use Permit No. 3985
(Application No. 4340)
TWC §§ 11.122 and 11.042
North Fork Double Mountain Fork Brazos River, Brazos River Basin
Lubbock and Lynn Counties

The Executive Director received an application from the City of Lubbock seeking to amend Water Use Permit No. 3985 pursuant to Texas Water Code §§11.122 and 11.042 and Texas Commission on Environmental Quality Rules 30 TAC §§295.1, *et seq.*

The application was received on April 27, 2004. The application was declared administratively complete and filed with the Office of the Chief Clerk on October 12, 2004. The notice of the application was mailed to the water right holders of record downstream of the City's diversion point in the Brazos River Basin on December 22, 2004. On February 10, 2005, the notice of the application was mailed to two additional water right holders of record downstream of the City's diversion point in the Brazos River Basin that had been inadvertently omitted in the December 22, 2004 mailing. Several requests for a contested case hearing were received.

Because this application was declared administratively complete after September 1, 1999, the rules in Chapter 55, Subchapter G, Section 55.250 - 55.256 apply. The Chief Clerk shall mail notice to the applicant, executive director, public interest counsel, and timely hearing requestors not later than 35 days prior to the agenda setting. Applicants, the public interest counsel, and the executive director shall file a response no later than 23 days before agenda, and the hearing requestors shall reply no later than nine days before agenda.

The application is now technically complete and the staff has recommended that the application be granted based on the analysis in the technical review memos.

Below is the caption for this application:

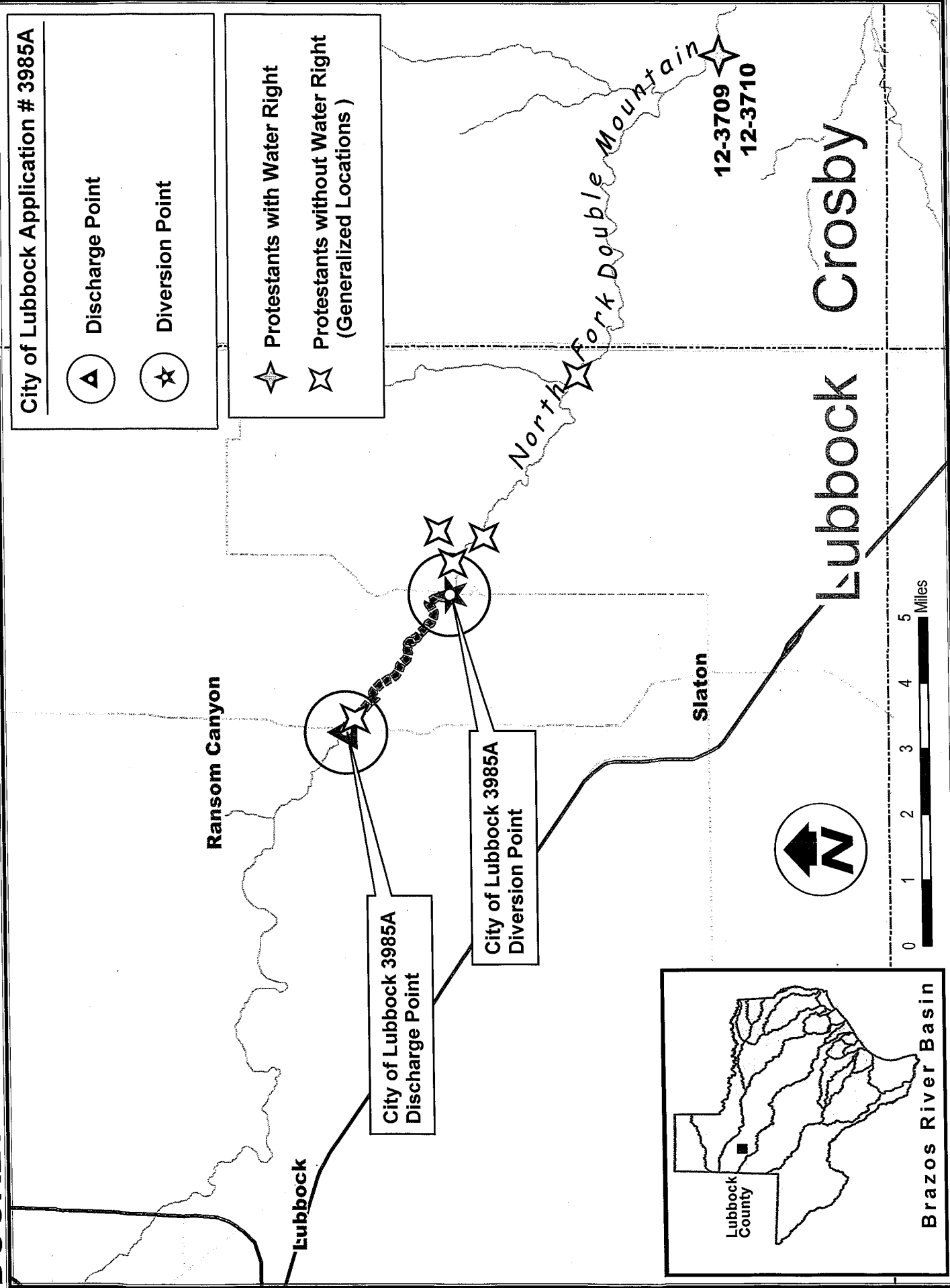
Consideration of the application by the City of Lubbock for an amendment to Permit No. 3985 to authorize the diversion and use of all historic and future discharges of Canadian

River Basin surface water-based return flows and groundwater-based return flows, including up to 10,081 acre-feet per year currently authorized for discharge by TPDES Permit No 10353-002, for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties, and to convey such return flows using the bed and banks of the North Fork Double Mountain Fork Brazos River from the discharge point authorized by TPDES Permit No. 10353-002 to a downstream diversion point. The discharge point authorized by TPDES Permit No. 10353-002 is located near the point where F.M. 400 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, and the most downstream point of diversion sought is located approximately 14,300 feet downstream of the discharge, near the point where C.R. 7300 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, approximately 4.5 miles northeast of the City of Slaton, Texas in Lubbock County. Existing Water Use Permit No. 3985 authorizes the City of Lubbock to use, within the Brazos River Basin, 22,910 acre-feet of return flows per year created as a result of the City's use of municipal water purchased from the Canadian River Municipal Water Authority. The commission will consider hearing requests on this application and may consider any other motions that have been filed. (Robin Smith, Ron Ellis)

Ron Ellis, Project Manager
Water Rights Permitting Team

Enclosure

cc: Linda Brookins, TCEQ
Kellye Rila, TCEQ
Chris Loft, TCEQ
Stephen Densmore, TCEQ
Iliana Delgado, TCEQ
Scott Swanson, TCEQ
Paul Geeslin, TCEQ
Robin Smith, TCEQ
Kathy Alexander, TCEQ



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF WATER RIGHTS APPLICATION APPLICATION NO. 4340A

The City of Lubbock seeks to amend Water Use Permit No. 3985 (Application No. 4340) to authorize the diversion and use of its permitted discharged effluent for agricultural, municipal, industrial and recreational purposes within Lubbock and Lynn Counties as well as the use of the bed and banks of the North Fork Double Mountain Fork Brazos River, Brazos River Basin, from the discharge point to the City's future downstream diversion facilities. More information on the application and how to participate in the permitting process is given below.

APPLICATION. The City of Lubbock ("the City"), P.O. Box 2000, Lubbock, Texas 79457, Applicant, seeks to amend Water Use Permit No. 3985 (Application No. 4340) pursuant to Texas Water Code §§11.042 and 11.122, and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Pursuant to 30 TAC § 295.161(a), notice is being mailed to the water rights holders of record downstream of the City's diversion point in the Brazos River Basin.

Water Use Permit No. 3985 (Application No. 4340) authorizes the City of Lubbock to use, within the Brazos River Basin, 22,910 acre-feet of treated effluent created as a result of the City's use of municipal water purchased from the Canadian River Municipal Water Authority (CRMWA), with 4,480 acre-feet authorized for industrial use at the Jones Power Plant in Lubbock County, and 18,430 acre-feet authorized for agricultural use for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties. A special condition stipulates that this permit is subject to the continued existence of a water supply contract between the City and the CRMWA.

The City is authorized, via TPDES Permit No. 10353-002, to discharge an annual flow of not to exceed 9.0 MGD (10,081 acre-feet per year) of treated effluent into the North Fork Double Mountain Fork Brazos River ("North Fork"). All treated effluent discharged by the City is comprised of either groundwater or developed surface water from the Canadian River Basin.

The City seeks to amend Water Use Permit No. 3985 (Application No. 4340) to authorize the diversion and use from the North Fork of all historic and future discharges of Canadian River Basin surface water-based effluent and groundwater-based effluent, including the currently authorized 10,081 acre-feet per year and to authorize the use of such water for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties. The City also seeks to convey the effluent via the bed and banks of the North Fork from the discharge point authorized by TPDES Permit No. 10353-002 to a downstream diversion point.

The discharge point authorized by TPDES Permit No. 10353-002 is located near the point where F.M. 400 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.5137°N and Longitude 101.6593°W.

The most downstream point of diversion sought is located near the point where C.R. 7300 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.493°N and Longitude 101.624°W, also being 129.75 feet bearing 265.353° south-southeast of the northeast corner of the Section Block S dated April 1967 in Lubbock County, 14.3 miles southeast of the county seat in Lubbock County and 4.5 miles northeast of the City of Slaton, Texas. The distance between the discharge point and the most downstream diversion point is approximately 14,300 feet. The City estimates that there will be losses of approximately 47.67 acre-feet per year from the discharge point to the diversion point due to transportation, evaporation, seepage, channel or other associated carriage losses from the point of discharge to the point of diversion.

The Commission will review the application as submitted by the City and may or may not grant the application as requested.

The application and fees were received on April 27, 2004 and additional information was received August 9 and September 2, 2004. The application was declared to be administratively complete and filed with the Office of the Chief Clerk on October 12, 2004.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by January 31, 2005. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by January 31, 2005. The Executive Director may approve the application unless a written request for a contested case hearing is filed.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us.

Issued: December 31, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF WATER RIGHTS APPLICATION APPLICATION NO. 4340A

The City of Lubbock seeks to amend Water Use Permit No. 3985 (Application No. 4340) to authorize the diversion and use of its permitted discharged effluent for agricultural, municipal, industrial and recreational purposes within Lubbock and Lynn Counties as well as the use of the bed and banks of the North Fork Double Mountain Fork Brazos River, Brazos River Basin, from the discharge point to the City's future downstream diversion facilities. More information on the application and how to participate in the permitting process is given below.

APPLICATION. The City of Lubbock ("the City"), P.O. Box 2000, Lubbock, Texas 79457, Applicant, seeks to amend Water Use Permit No. 3985 (Application No. 4340) pursuant to Texas Water Code §§11.042 and 11.122, and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Pursuant to 30 TAC § 295.161(a), notice is being mailed to the water rights holders of record downstream of the City's diversion point in the Brazos River Basin.

Water Use Permit No. 3985 (Application No. 4340) authorizes the City of Lubbock to use, within the Brazos River Basin, 22,910 acre-feet of treated effluent created as a result of the City's use of municipal water purchased from the Canadian River Municipal Water Authority (CRMWA), with 4,480 acre-feet authorized for industrial use at the Jones Power Plant in Lubbock County, and 18,430 acre-feet authorized for agricultural use for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties. A special condition stipulates that this permit is subject to the continued existence of a water supply contract between the City and the CRMWA.

The City is authorized, via TPDES Permit No. 10353-002, to discharge an annual flow of not to exceed 9.0 MGD (10,081 acre-feet per year) of treated effluent into the North Fork Double Mountain Fork Brazos River ("North Fork"). All treated effluent discharged by the City is comprised of either groundwater or developed surface water from the Canadian River Basin.

The City seeks to amend Water Use Permit No. 3985 (Application No. 4340) to authorize the diversion and use from the North Fork of all historic and future discharges of Canadian River Basin surface water-based effluent and groundwater-based effluent, including the currently authorized 10,081 acre-feet per year and to authorize the use of such water for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties. The City also seeks to convey the effluent via the bed and banks of the North Fork from the discharge point authorized by TPDES Permit No. 10353-002 to a downstream diversion point.

The discharge point authorized by TPDES Permit No. 10353-002 is located near the point where F.M. 400 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.5137°N and Longitude 101.6593°W.

The most downstream point of diversion sought is located near the point where C.R. 7300 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.493°N and Longitude 101.624°W, also being 129.75 feet bearing 265.353° south-southeast of the northeast corner of the Section Block S dated April 1967 in Lubbock County, 14.3 miles southeast of the county seat in Lubbock County and 4.5 miles northeast of the City of Slaton, Texas. The distance between the discharge point and the most downstream diversion point is approximately 14,300 feet. The City estimates that there will be losses of approximately 47.67 acre-feet per year from the discharge point to the diversion point due to transportation, evaporation, seepage, channel or other associated carriage losses from the point of discharge to the point of diversion.

The Commission will review the application as submitted by the City and may or may not grant the application as requested.

The application and fees were received on April 27, 2004 and additional information was received August 9 and September 2, 2004. The application was declared to be administratively complete and filed with the Office of the Chief Clerk on October 12, 2004.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by March 14, 2005. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by March 14, 2005. The Executive Director may approve the application unless a written request for a contested case hearing is filed.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us.

Issued: February 10, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A WATER USE PERMIT

APP. NO. 4340, PERMIT NO. 3985A

TYPE: §§ 11.122 & 11.042

Permittee: City of Lubbock

Address P.O. Box 2000 Lubbock,
TX 79457

Filed: October 12, 2004

Granted:

Purpose: Agricultural, Municipal,
Industrial, and Recreation

Counties: Lubbock and Lynn

Watercourse: North Fork Double
Mountain Fork Brazos
River, tributary of the
Double Mountain Fork
Brazos River, tributary of
the Brazos River

Watershed: Brazos River Basin

WHEREAS, Water Use Permit No. 3985 authorizes the City of Lubbock ("City" or "Applicant") to use, within the Brazos River Basin, 22,910 acre-feet of return flows per year created as a result of the City's use of municipal water purchased from the Canadian River Municipal Water Authority (CRMWA), of which not to exceed 4,480 acre-feet may be supplied to Southwestern Public Service Company for industrial use at the Jones Power Plant in Lubbock County, and not to exceed 18,430 acre-feet may be supplied for agricultural use for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties; and

WHEREAS, a special condition stipulates that this permit is subject to the continued effectiveness of a water supply contract between the City and the CRMWA; and

WHEREAS, Applicant is authorized, by TPDES Permit No. 10353-002, to discharge not to exceed 31.5 MGD of return flows, of which 9.0 MGD (10,081 acre-feet per year) is authorized for discharge from Outfall 1 into the North Fork Double Mountain Fork Brazos River ("North Fork"), tributary of the Double Mountain Fork Brazos River, tributary of the Brazos River, Brazos River Basin; and

WHEREAS, Applicant seeks to amend Water Use Permit No. 3985 to authorize the diversion and use of all historic and future discharges of Canadian River Basin surface water-based return flows and groundwater-based return flows, including up to 10,081 acre-feet per year currently authorized for discharge from Outfall 1 by TPDES Permit No 10353-002, for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties and to convey such return flows using the bed and banks of the North Fork Double Mountain Fork Brazos River from the discharge point authorized by TPDES Permit No. 10353-002 to a downstream diversion point; and

WHEREAS, Applicant has only discharged groundwater-based return flows into the watercourse since May 2003; and

WHEREAS, the discharge point authorized by TPDES Permit No. 10353-002 is located near the point where F.M. 400 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also being at Latitude 33.5137°N and Longitude 101.6593°W; and

WHEREAS, the most downstream point of diversion sought is located approximately 14,300 feet downstream of the discharge, near the point where C.R. 7300 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.493°N and Longitude 101.624°W, at a point bearing N 84.883°W, 129.25 feet from the northeast corner of Section 34, Block S, GCSF Rail Road Co., Abstract 51, approximately 4.5 miles northeast of the City of Slaton, Texas in Lubbock County; and

WHEREAS, Applicant indicates transportation, evaporation, seepage, channel or other associated carriage losses between the discharge point and the diversion point are estimated to be approximately 0.47 percent of the discharged return flows; and

WHEREAS, the Texas Commission on Environmental Quality finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director has determined that special conditions should be applied to protect instream uses and existing water rights in the Brazos River Basin; and

WHEREAS, Applicant has provided and the Executive Director has approved the *Lubbock Reuse Accounting Plan*; and

WHEREAS, nine requests for a contested case hearing were received, and one was subsequently withdrawn; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality in issuing this amendment;

NOW, THEREFORE, this amendment to Water Use Permit No. 3985, designated Water Use Permit No. 3985A, is issued to the City of Lubbock, subject to the following terms and conditions:

1. USE

- A. In lieu of the previous authorization, the City of Lubbock is now authorized to divert and use not to exceed 32,991 acre-feet of historical and future return flows per year and additional future return flows, discharged pursuant to TPDES Permit No. 10353-002, being up to 22,910 acre-feet per year created as a result of the City's use of municipal water purchased from the CRMWA, and up to 10,081 acre-feet of groundwater-based return flows, for agricultural, municipal, industrial and recreation purposes in Lubbock and Lynn Counties.
- B. Permittee is authorized to use the bed and banks of the North Fork Double Mountain Fork Brazos River, tributary of the Double Mountain Fork Brazos River, tributary of the Brazos River, Brazos River Basin to convey return flows from the discharge point authorized by TPDES Permit No. 10353-002 to diversion point authorized herein.

2. DISCHARGE

The discharge point authorized by TPDES Permit No. 10353-002 is located near the point where F.M. 400 in Lubbock County crosses the North Fork Double Mountain Fork Brazos River, also described as being located at Latitude 33.5137°N and Longitude 101.6593°W in the City of Lubbock.

3. DIVERSION

- A. Point - Permittee is authorized to divert return flows discharged pursuant to TPDES Permit No. 10353-002, less any transportation losses, near the point where C.R. 7300 crosses the North Fork, also described as being located at Latitude 33.493°N and Longitude 101.624°W, at a point bearing N 84.883°W, 129.25 feet from the northeast corner of Section 34, Block S, GCSF Rail Road Co., Abstract 51, approximately 4.5 miles northeast of the City of Slaton, Texas in Lubbock County.
- B. Rate - Permittee is authorized to divert return flows discharged pursuant to TPDES Permit No. 10353-002 at a maximum rate of 29.45 cfs.

4. PRIORITY

The groundwater based return flows authorized to be conveyed via the bed and banks of a state watercourse in this permit do not have a priority date and are not subject to priority calls from senior water rights. The surface water-based return flows retain the original permit priority date.

5. CONSERVATION

Permittee shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.

6. SPECIAL CONDITIONS

- A. Permittee shall only divert and use return flows authorized by this amendment in accordance with *Lubbock Reuse Accounting Plan*, which ensures that only return flows will be diverted. Permittee shall maintain the plan in electronic format and make the data available to the Executive Director and the public upon request. Any modifications to *Lubbock Reuse Accounting Plan* shall be approved by the Executive Director. Any modification to the accounting plan that changes the permit terms must be in the form of an amendment to the permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease diversion and use of groundwater based return flows pursuant to Paragraph 1. USE and Paragraph 3. DIVERSION, and either apply to amend the permit, or voluntarily forfeit this amendment. If Permittee fails to amend the accounting plan or forfeit this amendment, the Commission may begin proceedings to cancel the amendment. The Commission shall be notified immediately by the Permittee upon modification of the accounting plan and provided with copies of the appropriate documents effectuating such changes.

- B. Prior to reuse of groundwater based return flows in an amount greater than 10,081 acre-feet per year, or surface water based return flows in an amount greater than 22,910 acre-feet per year, Permittee must apply for and be granted authorization to reuse these return flows.
- C. The diversions authorized by this amendment are dependant upon potentially interruptible return flows or discharges and are conditioned on the availability of those discharges. Permittee shall only divert the return flows that are actually discharged, and if there is a permanent reduction in available return flows, Permittee shall immediately seek an amendment to the permit to reflect the reductions. The right to divert the discharged return flows hereunder is subject to revocation and Permittee is subject to enforcement if this condition is violated.
- D. In order to minimize entrainment and impingement of aquatic organisms, Permittee shall install a screen with a mesh size of 0.25 inches or smaller on the diversion structures and shall implement a maximum flow-through screen velocity of 0.5 feet per second. A mesh size of 0.25 inches is the maximum allowable mesh size for the protective screen on an intake structure according to general permit guidelines established by the U.S. Army Corps of Engineers, Regulatory Branch, Fort Worth District.
- E. Permittee shall install and maintain a measuring device which accounts for, within 5% accuracy, the quantity of water diverted from the point(s) authorized above in Paragraph 3 and maintain measurement records. Permittee shall allow representatives of the TCEQ reasonable access to the property to inspect the measuring device and records.
- F. Within 90 days prior to the diversion of water for industrial purposes, the applicant or contract customer must submit an industrial water conservation plan to the TCEQ to comply with Title 30 TAC Chapter 288.3.

This amendment is issued subject to all terms, conditions and provisions contained in Water Use Permit No. 3985, except as amended herein.

This amendment is issued subject to all superior water rights in the Brazos River Basin.

Permittee agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right of continuing supervision of state water resources exercised by the Commission.


For the Commission

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Julie Wood
Water Rights Permitting Team

Through:  Lann Bookout, Team Leader
Surface Water Availability & Interstate Compacts Team

From: Stephen Densmore, Hydrologist
Surface Water Availability & Interstate Compacts Team

Subject: City of Lubbock
Application No. 4340A for amendment to Water Use Permit No. 3985
CN600130736
RN104271457

August 15, 2005

WATER AVAILABILITY ANALYSIS

Application Summary

The applicant is owner of Permit 3985, which authorizes the use within the Brazos River Basin of not to exceed 22,910 acre-feet of treated sewage effluent created from the City's use of municipal water purchased from the Canadian River Municipal Water Authority for industrial and agricultural purposes. The applicant is also owner of TPDES permit 10353-002 which authorizes the discharge of up to 9.0 MGD (10,080 acre-feet per year) of treated effluent into the North Fork of the Double Mountain Fork of the Brazos River (North Fork).

The applicant seeks to amend the permit to divert and use all historical and future discharges of "developed" surface water and groundwater based treated effluent. The applicant also requests authorization to use said water for agricultural, municipal, industrial, and recreational purposes within Lubbock and Lynn Counties and use the bed and banks of the North Fork from the outfall point authorized under TPDES permit 10353-002 to a diversion point on the North Fork at Latitude 33 degrees, 29 minutes, and 33 seconds and Longitude 101 degrees, 37 minutes, and 25 seconds. The applicant has estimated that 60 percent of the current effluent discharges under the TPDES permit is groundwater based. The applicant estimates that transportation losses to be 0.47 percent of the total amount of the discharge or 47.67 acre-feet per year when the full 9 MGD of effluent is discharged.

The application was declared administratively complete on October 12, 2004.

Water Availability and No Injury Analysis

In May of 2003 the applicant began discharging treated effluent at the outfall authorized under TPDES permit 10353-002 and is not requesting any additional appropriation of water; therefore an unappropriated water analysis was not necessary. Resource Protection staff made no recommendation for flow restrictions for instream flow protection but did have other condition to be placed in the permit. Additionally, because the "developed" water has not been previously discharged into the Brazos River Basin, not water rights in the basin could have been granted based on the treated effluent. Therefore, no water rights in the Brazos basin could be affected by the granting of this application.

Conclusion

The applicant's estimate of transportation losses appear to be reasonable and the method used to determined the losses is acceptable.

Staff can support the granting of this application to:

1. Divert and use under the prior authorization the amount of effluent discharged under TPDES permit 10353-002 less transportation losses of 0.47 percent of the discharge that is surface water purchased from the Canadian River Municipal Water Authority.

2. Add municipal and recreational use to the authorized use not to exceed 22,910 acre-feet per year of sewage effluent created from the City's use of municipal surface water purchased from the Canadian River Municipal Water Authority.

3. The priority date for the surface water diversion is May 23, 1983 but is not subject to call by senior permit holders in the basin.

4. Increase the total authorized use under permit 3985 by 6,048 acre-feet per year to include the groundwater discharged under the city's TPDES permit. The water diverted can be used for agricultural, municipal, industrial and recreational purposes.

5. The priority date for the groundwater diversion is October 12, 2004 but is not subject to call by senior permit holders in the basin.

6. Owner can divert and use the amount of groundwater based effluent discharged under TPDES permit 10353-002 not to exceed 6,048 acre-feet less transportation losses of 0.47 percent of the discharged amount.

Staff recommend that the amended certificate contain the following special conditions:

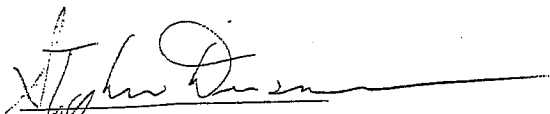
1. The diversion rate shall not exceed the discharge rate of the effluent being put in the North Fork
2. The owner has the right to future return flows the city generates but prior to reuse of these return flows the permit owner must:

- A. Obtain the necessary bed and banks authorizations from the Commission for conveyance of the future returns.

- B. Identify and obtain authorization for the discharge and diversion of the future return flows.

3. Permittee shall install and maintain a streamflow measuring device immediately upstream of the discharge point and shall allow all streamflow present to pass the most downstream diversion point.

4. Prior to the diversion of water authorized by this permit, owner shall provide, in electronic form, a withdrawal plan approved by the Executive Director that accounts by source all water discharge under the city's TPDES permit. The plan will also show amounts discharged by outfall, estimates of conveyance losses from discharge point to diversion point, streamflow immediately upstream of discharge point, and amounts diverted at the diversion point. The owner shall maintain the approved withdrawal plan for review by the Executive Director and the general public as needed.


Stephen Densmore,
Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Ron Ellis
Water Rights Permitting Team

Through: *B* Lann Bookout, Team Leader
Surface Water Availability & Interstate Compacts Team

From: Stephen Densmore, Hydrologist
Surface Water Availability & Interstate Compacts Team

Subject: City of Lubbock
WRPERM 3985
CN600130736
North Fork Double Mountain Fork Brazos River
Lubbock and Lynn Counties

May 29, 2009

WATER AVAILABILITY ADDENDUM

The original Water Availability Analysis was completed on August 15, 2005, and the draft permit was sent to the applicant and protestants on August 2, 2006. The applicant submitted an accounting plan on September 25, 2006, which was reviewed by staff and determined to be adequate. Resource Protection staff completed an addendum to their previous memo on October 25, 2006. This addendum did not change the conclusions of the hydrology review.

A revised draft was sent to the applicant and protestants on October 26, 2006. After further review of the application, staff determined that the Water Availability Analysis should be revised to clarify the maximum amount of groundwater based effluent available for diversion. The City requested authorization to divert and reuse both historic and future discharges of treated effluent originating from both surface water and groundwater sources. The permit currently authorizes reuse of up to 22,910 acre-feet of surface water based effluent. TPDES Permit No. 10353-002 authorizes the discharge of up to 10,081 acre-feet of treated effluent. The application requests acknowledgement that the entire amount of the discharge could originate from the City's groundwater sources and seeks to amend the permit to authorize the reuse of up to 32,991 acre-feet of discharged effluent consisting of 22,910 acre-feet originating from the City's use of surface water purchased from CRMWA and 10,081 acre-feet of groundwater based effluent. In addition the City requests the right to divert all future discharges from both sources.

No Injury Analysis

Although the City requests authorization to increase the total amount authorized for reuse, from 22,910 acre feet to 32,991 acre-feet, the request cannot affect existing water rights because the amount of water discharged under the current TPDES permit is less than the amount currently authorized for reuse. Any increase in discharge would be water that has not historically been in the stream.

The request to divert groundwater based effluent instead of surface water based effluent cannot affect other basin rights because the amount authorized for reuse by the existing permit exceeds the amount

authorized for discharge by TPDES Permit No. 10353-002. Whether the source of the discharges is groundwater or surface water does not affect other water rights because the applicant is authorized to reuse the entire amount of the current TPDES discharge.

Conclusion

Staff can recommend granting the request to reuse up to 32,991 acre-feet of effluent, with 22,910 acre-feet originating from surface water based effluent and 10,081 acre-feet originating from groundwater based effluent. Any final draft permit should include the following changes.

In lieu of Special Condition B. of the draft permit:

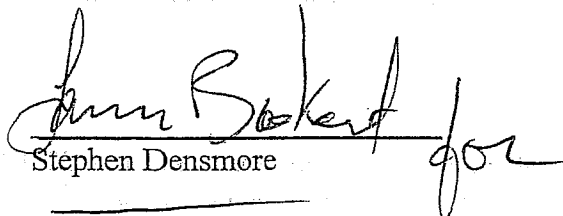
Permittee shall only divert and use return flows authorized by this amendment in accordance with *Lubbock Reuse Accounting Plan*. Permittee shall maintain the plan in electronic format and make the data available to the Executive Director and the public upon request. Any modifications to *Lubbock Reuse Accounting Plan* shall be approved by the Executive Director. Any modification to the accounting plan that changes the permit terms must be in the form of an amendment to the permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease diversion and use of the return flows pursuant to Paragraph 1. USE and Paragraph 3. DIVERSION, and either apply to amend the permit, or voluntarily forfeit this amendment. If Owner fails to amend the accounting plan or forfeit this amendment, the Commission may begin proceedings to cancel the amendment. The Commission shall be notified immediately by the Owner upon modification of the accounting plan and provided with copies of the appropriate documents effectuating such changes.

In lieu of Special Condition C., of the draft permit:

Prior to reuse of groundwater based return flows in an amount greater than 10,081 acre-feet per year, Permittee must apply for and be granted authorization to reuse these return flows.

Add an additional Special condition:

The diversions authorized by this amendment are dependant upon potentially interruptible return flows or discharges and are conditioned on the availability of those discharges. Owner shall only divert the return flows that are actually discharged, and if there is a permanent reduction in available return flows, Owner shall immediately seek an amendment to the certificate to reflect the reductions. The right to divert the discharged return flows hereunder is subject to revocation and Owner is subject to enforcement if this condition is violated.


Stephen Densmore

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Julie Wood, Project Manager
Water Rights Permitting Team

Date: July 20, 2005

Thru: BB 7/26/05 Bill Billingsley, Team Leader
Resource Protection Team
WGS 7/20/05 Wendy Gordon, Ph.D., Aquatic Scientist
Resource Protection Team

From: JB 7-20-05 John Botros, Aquatic Scientist
Resource Protection Team

Subject: City of Lubbock, Application 4340A to amend Water Use Permit 3985
WRPERM 3985, CN600130736, RN104271457
North Fork Double Mountain Fork Brazos River, Brazos River Basin
Lubbock and Lynn Counties

Environmental reviews of water right applications are conducted in accordance with §11.147, §11.1491, §11.150, and §11.152 of the Texas Water Code and with TCEQ administrative rules which include 30 TAC §297.53 through §297.56. These statutes and rules require the TCEQ to consider the possible impacts of the granting of a water right on fish and wildlife habitat, water quality, and instream uses associated with the affected body of water. Possible impacts to bays and estuaries are also addressed.

ENVIRONMENTAL ANALYSIS

Application Summary: Water Use Permit 3985 (Application 4340) authorizes the City of Lubbock to use, within the Brazos River Basin, 22,910 acre-feet of treated effluent created as a result of the City's use of municipal water purchased from the Canadian River Municipal Water Authority (CRMWA). Of the 22,910 acre-feet authorized for reuse, 4,480 acre-feet is authorized for industrial use at the Jones Power Plant in Lubbock County and 18,430 acre-feet authorized for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties. A special condition stipulates that Permit 3985 is subject to the continued existence of a water supply contract between the City and the CRMWA.

The City is authorized, via TPDES Permit 10353-002, to discharge an annual flow of up to 9.0 million gallons per day (MGD) (or 10,081 acre-feet per year) of treated effluent into the North Fork Double Mountain Fork Brazos River. All treated effluent discharged by the City is composed of

either groundwater or developed surface water from the Canadian River Basin.

The City seeks to amend Water Use Permit 3985 (Application 4340A) to authorize the diversion and use from the North Fork Double Mountain Fork Brazos River of all historic and future discharges of Canadian River Basin surface water-based effluent and groundwater-based effluent, including the currently authorized 10,081 acre-feet per year, and to authorize the use of such water for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties.

The City also seeks to convey the effluent via 3.1 miles (16,400 feet) of the bed and banks of the North Fork Double Mountain Fork Brazos River. The discharge point authorized by TPDES Permit 10353-002 is located near the F.M. 400 crossing, and the most downstream point of the diversion sought is located near the Slayton Road crossing. The City estimates that there will be losses of approximately 47.67 acre-feet per year due to transportation, evaporation, seepage, channel or other associated carriage losses within the headwaters of Yellow House Canyon. At the time of this memorandum, the applicant has not specified a maximum diversion rate.

INSTREAM USES

Aquatic and Riparian Habitats: According to the Handbook of Texas Online, Yellow House Draw (or Canyon), a major landmark on the Texas South Plains, cuts a gap of more than 35 miles into the eastern edge of the Caprock escarpment in Lubbock and Crosby Counties. The North Fork of the Double Mountain Fork of the Brazos River begins where the Blackwater and Yellow House streams merge. The cliff heights below Buffalo Springs average about 200 feet. The canyon was carved by gradual erosion beginning some two million years ago, when the first river began to cut the channel. The presence of the Ogallala aquifer is evident in the southeast part of the canyon, south of the Lubbock feedlots, while Pleistocene deposits are found to the north and west.¹ According to the Texas Parks and Wildlife Department's website², the North Fork Double Mountain Fork Brazos River is characterized as an prairie stream ecosystem with significant overall habitat value as well as the presence of exemplary native prairie-stream fish community, including *Notropis oxyrhynchus* (sharpnose shiner) and *Notropis buccula* (smalleye shiner), both on Texas' list of species of concern.

USGS topographic maps (Buffalo Springs Lake, Slaton, & Slaton NE quadrangles) describe the North Fork Double Mountain Fork Brazos River at the project's location as a perennial stream flowing through a braided channel canyon in its downstream sections. Based on streamflow data collected from USGS gaging station 080779575 (North Fork DMF Brazos River near Post, TX) from 1983 to 1993, the monthly median flows range from 5 cubic feet per second (cfs) in August to 19 cfs in February (Table1).

¹ Handbook of Texas Online, s.v. "Yellow House Draw,"
<http://www.tsha.utexas.edu/handbook/online/articles/view/YY/rky1.html> (accessed April 14, 2005)

² http://www.tpwd.state.tx.us/texaswater/sbl/rivers/unique/regions_text/regions_list/region_g.shtml

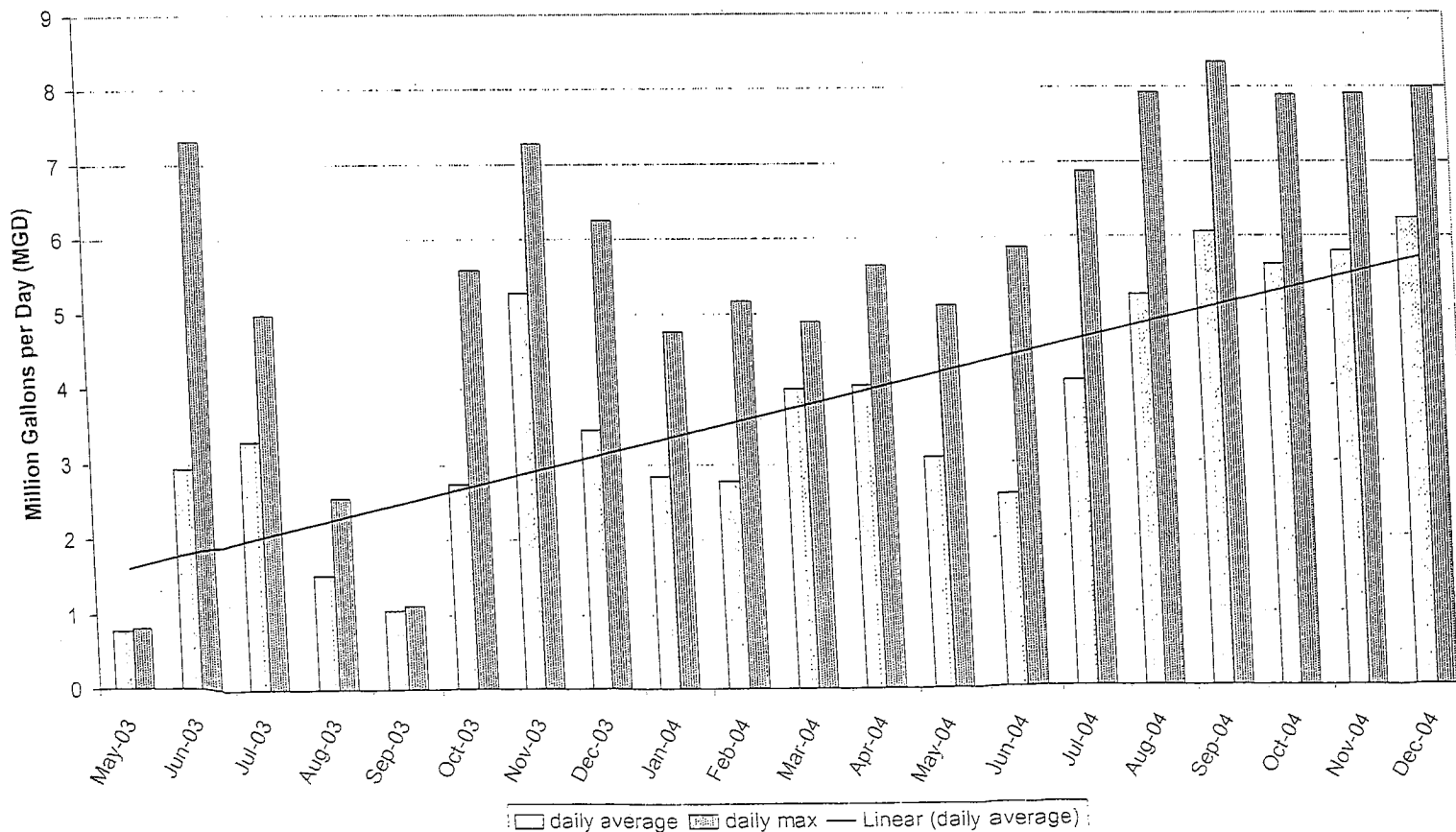
Table 1: Monthly Median Flows on North Fork DMF Brazos River (1983-1993)

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
14.0	19.0	14.0	10.0	7.6	16.0	6.4	5.0	10.0	12.0	12.0	14.0

Closer examination of the gaged record (1983-1993) reveals that 262 of the 3653 days recorded a zero flow value with 10 occurrences of zero flow for more than 7 consecutive days, which may suggest a more intermittent flow regime for the stream during this time period.

TPDES Permit 10353-002 authorizes an average annual effluent flow of 9.0 million gallons per day (MGD) from Outfall #1. Based on self-reporting data, the City has discharged an average daily flow ranging from 0.78 MGD in May 2003 to 6.24 MGD in December 2004. Average daily maximum flow range from 0.81 MGD to 7.99 MGD for respective months. Linear trend analysis of the daily average effluent flow shows that discharge from this wastewater treatment plant has gradually increased in quantity since it began discharging in May 2003 (Figure 1). Increased discharge is the expected trend for the foreseeable future.

Figure 1: City of Lubbock Monthly Discharge
 North Fork DMF Brazos River



Water Quality: The North Fork Double Mountain Fork Brazos River is designated as unclassified Segment 1241A in the *State of Texas Water Quality Inventory, 305(b)/303(d) Report*. The next downstream classified segment is the Double Mountain Fork Brazos River, Segment 1241, approximately 78 river miles downstream of the proposed diversion point. From the 2002 305(b)/303(d) Report³, Segment 1241A is described as a perennial stream from the confluence with the Double Mountain Fork Brazos River to the dam forming Lake Ransom Canyon (approximately 85 miles in length). Based on data from March 1996 to February 2001, the aquatic life and contact recreation uses are fully supported in Segment 1241A, and the fish consumption use was not assessed. There are nutrient enrichment and excessive algal growth concerns in the upper three miles of the segment.

According to the *Texas Surface Water Quality Standards (30 TAC §307)*, 7Q2 flows represent low flow criteria above which water quality standards apply to a given water body. The 7Q2 value is defined as the lowest average flow for seven consecutive days that is expected to recur every two years. The 7Q2 flow is often considered the lowest allowable flow which provides adequate dilution of pollutants. The critical dilution flow value used in the water quality modeling of the effluent limits placed on TPDES Permit 10353-002 is 1.19 cfs. It should be noted that the calculated 7Q2 value from discontinued USGS gage (08079575) data during the period, 1983-1993, is 0 cfs.

Freshwater Inflows to Bays and Estuaries: The proposed project is located more than 200 river miles from the mouth of the Brazos River and upstream of numerous major impoundments in the Brazos River basin. Considering the project's location and source of effluent, the proposed project to divert and reuse effluent flows up to 10,080 acre-feet of water per year has minimal potential to reduce historical freshwater inflows into the Brazos River Estuary.

Recreational Uses: Water-based recreational uses are known to occur at a number of the reservoirs in the area such as Buffalo Springs Lake, Lake Ransom Canyon, and Lake Alan Henry. However, riverine recreation such as paddling or fishing is not known to occur on the North Fork Double Mountain Fork Brazos River probably due to limited access points and periodic low flows. The proposed project is not expected to have an impact on recreational uses in the area.

SUMMARY AND CONCLUSIONS: Applicant seeks to amend Permit 3985 (Application 4340A) to authorize the diversion and use from the North Fork Double Mountain Fork Brazos River of historic and future discharges of effluent (10,080 acre-feet per year) authorized by TPDES Permit 10353-002 for agricultural, municipal, industrial, and recreational purposes. The City also requests to convey the effluent via the bed and banks of the North Fork Double Mountain Fork Brazos River.

³ Found online at: http://www.tnrcc.state.tx.us/water/quality/02_twqmar/02_summaries/index.html

Staff recommend the following special conditions to be included in the proposed amendment:

1. Permittee shall install and maintain a streamflow measuring device immediately upstream of the discharge point and shall allow all streamflow present in the North Fork Double Mountain Fork Brazos River to pass the most downstream diversion point at Slayton Road.
2. The diversion of effluent shall be at an instantaneous rate not to exceed the discharge rate into the stream. Permittee shall file with the Commission for an amendment to specify the maximum diversion rate to be utilized prior to the diversion of water authorized by this amendment.
3. Electronic records of all effluent discharges, conveyance losses and diversions must be maintained and made available to the Commission upon request.

This instream use assessment was conducted using current TCEQ operation procedures and policies and available data and information. The recommendations in this environmental analysis are intended for the protection of instream uses and do not necessarily provide protection to downstream water rights; that analysis is addressed in the hydrology memo and further restrictions may be applicable as necessary. Authorizations granted to the permittee by the water rights permit shall comply with all rules of the Texas Commission on Environmental Quality, and other applicable State and Federal authorizations.

cc: Todd Chenoweth, Manager, Water Rights Permitting & Availability Section
Kathy Alexander, Hydrologist, Surface Water Availability Team

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm, Application Manager
Water Rights Team

Date: September 26, 2006

Through: Bill Billingsley, Team Leader BB 10/25/06
Resource Protection Team

Wendy Gordon, Ph.D., Aquatic Scientist BB 10/25/06
Resource Protection Team for W.G.

From: John Botros, Aquatic Scientist JB 10/25/06
Resource Protection Team

Subject: City of Lubbock, Application 4340A
WRPERM 3985
North Fork DMF Brazos River, Brazos River Basin
Lubbock and Lynn Counties

ENVIRONMENTAL ANALYSIS - ADDENDUM

The City seeks to amend Water Use Permit 3985 (Application 4340A) to authorize the diversion and use from the North Fork Double Mountain Fork Brazos River (North Fork) of all historic and future discharges of Canadian River Basin surface water-based effluent and groundwater-based effluent, including the currently authorized 10,081 acre-feet per year, and to authorize the use of such water for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties.

In the comment letter of August 25, 2006, the applicant has suggested revisions to the language in draft Permit 3985A and has specified a maximum diversion rate of 29.45 cfs. The diversion rate of 29.45 cfs is significantly higher than the annual range of monthly median flows for the North Fork as measured at USGS 080779575 (North Fork DMF Brazos River near Post, TX) for the period 1983 to 1993. This high of a diversion rate presents concerns regarding the potential adverse impacts to the aquatic organisms due to entrainment and impingement at the diversion facilities. Therefore, staff recommends the following special condition:

In order to minimize entrainment and impingement of aquatic organisms, the Permittee shall install a screen mesh of 0.25 inches or smaller on the diversion structures and shall implement a maximum flow-through screen velocity of 0.5 feet per second.

Furthermore in regards to the language in Special 6A in draft Permit 3985A, the term "natural streamflow" may create some misinterpretation of the intent of the special condition. Therefore, staff recommends the following special condition for the permit:

Prior to diversion of the water authorized herein, Permittee shall install and maintain a measuring device(s), capable of measuring within plus or minus 5%

accuracy, all treated effluent discharges into, and diversions² from, the North Fork. Permittee shall allow any and all streamflow present in the North Fork upstream of the discharge point to be passed downstream of the diversion point authorized in this amendment.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Ronald Ellis, Project Manager
Water Rights Permitting Team
Water Supply Division

Date: October 27, 2009

Thru: Christopher Loft, Team Leader
Resource Protection Team
Water Supply Division

CL 10/27/09

From: Scott Swanson, Water Conservation Specialist
Resource Protection Team
Water Supply Division

ESS 10/27/09

Subject: The City of Lubbock
ADJ 3985
CN600130736
Technical Review of Water Conservation Plan

The City of Lubbock seeks to amend Water Use Permit No. 3985 to authorize the diversion and use of all historic and future discharges of Canadian River Basin surface water-based return flows and groundwater-based return flows, including up to 10,081 acre-feet per year currently authorized for discharge from Outfall 1 by TPDES Permit No. 10353-002, for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties and to convey such return flows using the bed and banks of the North Fork Double Mountain Fork Brazos River from the discharge point authorized by TPDES Permit No. 10353-002 to a downstream diversion point.

The applicant is required to provide evidence that the amount of water appropriated will be beneficially used, i.e., effectively managed and not wasted pursuant to Texas Water Code (TWC), Section 11.134(b)(3)(A). Also, the applicant must provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation, pursuant to TWC, Section 11.134(b)(4). To provide that evidence, the applicant has submitted a water conservation plan in accordance with Title 30, Texas Administrative Code (TAC), Chapter 288. In applications where new water is requested, the technical review analyzes whether the requested appropriation is reasonable and necessary for the proposed uses in accordance with Section 11.134 of the TWC, and Title 30, TAC, Chapter 297.50.

The purpose of this technical review is to:

- (1) determine whether reasonable water conservation goals have been set;
- (2) determine whether the proposed strategies can achieve the stated goals;
- (3) determine whether the water conservation plan addresses a water supply need in a manner

that is consistent with the state water plan and the relevant approved regional water plan.

If these criteria are met, then sufficient evidence has been presented to conclude that the applicant will avoid waste and achieve water conservation. This technical review forms a basis for permit conditions and limitations as provided by Sections 11.134 of the TWC.

WATER CONSERVATION GOALS & STRATEGIES

The City of Lubbock's water conservation goals are as follows:

- Reduce annual per capita water use to 180 gallons per person per day (5 percent) by the year 2011
- Reduce annual per capita water use to 170 gallons per person per day (10 percent) by the year 2016
- Reduce annual per capita water use to 160 gallons per person per day (15 percent) by the year 2020

In the 2006 Water Conservation Plan, the City of Lubbock indicates that its water conservation program is comprised of three main strategies in the following order of priority: (1) structural changes to water use, (2) administrative water conservation efforts, and (3) public education efforts. More details for those strategies are listed below.

Structural changes are those programs that result in a physical modification of water use devices or practices; such as, plumbing retrofit or rehab programs. It is the intent that these programs result in definable and quantifiable water conservation amounts. Structural programs are, but not limited to, the following:

1. Plumbing retrofit programs: the City of Lubbock will support plumbing retrofit programs to replace higher water using devices, such as, toilets, faucets, urinals, etc.
2. Rebate Programs: Lubbock will support programs to provide financial incentives to replace water using devices with lower water using devices. These programs may include, but not be limited to, residential dishwashing and clothes washing machine replacement, commercial clothes washing machine replacement, restaurant prewash valve replacement, replacement of landscape irrigation systems with drip or surface systems, and reduction in the amount of water consuming landscape.
3. Rehabilitation programs: Lubbock will support the rehabilitation of its own water supply, storage and distribution system to minimize water loss due to leaks. Lubbock will support and encourage rehabilitation of private water systems to minimize water loss and water waste. Lubbock will actively engage its customers in this effort by providing free water audits.
4. Reclaimed water programs: Lubbock will support the expanded and continued use of reclaimed water for a substitute for potable water use.

Administrative Changes are programs, policies, and rules that support water conservation efforts. Lubbock's administrative program may include, but is not limited to, the following:

1. Development and implementation of water conserving water rates. This may include, but not be limited to, seasonal rates, excessive use charges, or increasing block rates.
2. Implementation of plumbing codes that are more stringent than the adopted City plumbing code.
3. Review and revision of all city codes that could affect the use of water.
4. Active enforcement of rules, codes, and regulations on water conservation.

Lubbock will support programs to educate the public on the wise use of water. Major components of the public education program include, but are not limited to, the following:

1. Presentation of water conservation issues in the Kindergarten through 12th grade public and private education system.
2. Education of the general public on the need for and practices of water conservation through public service announcements, participation in home and garden shows, etc.

The above listed strategies appear to be reasonable for achieving a reduction in gallons-per-capita-daily (gpcd) water use within the City of Lubbock's service area.

WATER NEED

Addendum No.1 of Llano Estacado Regional Water Plan (2006 Region O Water Plan) lists the City of Lubbock's updated water supplies and demands. It also includes the major updates for the City of Lubbock's projected water supply and demands throughout the 50-year planning period. The City of Lubbock's water demands are projected to increase from 40,460 acre-feet in 2000 to 54,305 acre-feet in 2060. In addition, the City of Lubbock is a major water provider for both Lubbock and Lynn Counties. The projected municipal and irrigation water shortages in 2060 for Lubbock and Lynn Counties are projected to be 112,485 acre-feet.

CONSISTENCY WITH STATE AND REGIONAL WATER PLANS

The approved state and regional water plans do not specifically address this amendment. The approved January 2006 Region O Water Plan, however, does identify reuse of treated effluent as a significant source of water in the future. In addition, the application is consistent with the approved January 2006 Region O Water Plan and the 2007 State Water Plan because there is nothing in the state and regional water plans that conflicts with issuing this amendment.

SUMMARY

The application has been evaluated and determined to meet the technical review requirements as

listed on Page 1.

RECOMMENDATIONS

TCEQ staff recommends that, if the amendment is granted, the standard water conservation language be included in the permit:

“Permittee shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures that will result in the highest practicable levels of water conservation and efficiency in order to comply with TAC Chapter 297.18. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.”

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Julie Wood, Project Manager
Water Rights Permitting Team
Water Supply Division

Date: August 18, 2004

Thru: Kristin Wang, Water Conservation Specialist
Resource Protection Team
Water Supply Division

From: Dean Minchillo, Water Conservation Specialist
Resource Protection Team
Water Supply Division

Subject: City of Lubbock
WRPERM 3985
CN600130736
Review of Water Conservation and Drought Contingency Plan for Administrative Sufficiency-COA12-3985A

KW 8/18/04
DM 8/18/04

Water Use Permit No. 3985 authorizes the City of Lubbock to use, within the Brazos River Basin, 22,910 acre-feet of treated effluent that has been purchased from the Canadian River Municipal Water Authority (CRMWD), with 4,480 acre-feet authorized for industrial use at Jones Power Plant in Lubbock County, and 18,430 acre-feet authorized for agricultural use for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties. A special condition stipulates that this permit is subject to the continued existence of a water supply contract between the city and the CRMWD.

Owner is authorized, via Texas Pollutant Discharge Elimination System (TPDES) Permit No. 10353-002, to discharge 9.0 MGD (10,081 acre-feet per year) of treated effluent into the North Fork Double Mountain Fork Brazos River (North Fork).

Owner seeks to amend Water Use Permit No. 3985 to authorize the City of Lubbock to divert and use from the North Fork all historic and future discharges of surface and groundwater based effluent, including the 10,081 acre-feet per year, and to authorize the use of such water for agricultural, municipal, industrial and recreational purposes anywhere within Lubbock and Lynn Counties. Permittee also seeks to use the bed and banks of the North Fork from the discharge point authorized by TPDES Permit No. 10353-002 to the City of Lubbock's future downstream diversion facilities to be located within the reach of Segment 1241 of the Brazos River (exact location and associated channel losses unspecified at this time).

The City of Lubbock's Water Conservation and Drought Contingency Plans have been reviewed for administrative sufficiency. The submitted plans meet the minimum requirements for municipal and wholesale use as defined by TCEQ Rules, Title 30 TAC Chapter 288.2, 288.5, 288.20 and 288.22.

The applicant's request to divert and use all historic and future discharges of surface and groundwater based effluent and the applicant's water conservation and drought contingency plans are not inconsistent with the approved 2002 State Water Plan and the January 2001 Region "O" Water Plan.

For industrial use, since no wholesale customers have been determined, the Water Conservation Staff of the Resource Protection Team recommends that a special condition be included in the water right amendment. The special condition should state that within 90 days prior to the diversion of water for industrial/mining purposes, the applicant or contract customer must submit an industrial/mining water conservation plan to the TCEQ to comply with Title 30 TAC Chapter 288.3.

"Owners shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures."

No further review is required by the Water Conservation Staff of the Resource Protection Team.

cc: Bill Billingsley, Resource Protection Team

PERMIT TO
APPROPRIATE STATE WATER

APPLICATION NO. 4340	PERMIT NO. 3985	TYPE: Section 11.121
Permittee : City of Lubbock	Address : P. O. Box 2000 Lubbock, Texas 79457	
Received : December 17, 1981	Filed : March 7, 1983	
Granted : May 23, 1983	Counties : Hutchinson, Moore, Potter, Lubbock and Lynn Counties	
	Watershed: Canadian River Basin and Brazos River Basin	

WHEREAS, the Texas Water Commission finds that jurisdiction of the application is established; and

WHEREAS, a public hearing has been held and the City of Lubbock named as a party; and

WHEREAS, by law the Executive Director and the Public Interest Advocate of the Department of Water Resources are parties; and

WHEREAS, no person appeared to protest the granting of this application; and

WHEREAS, the Commission has assessed the effects of issuance of this permit on the bays and estuaries of Texas; and

WHEREAS, the issuance of this permit granting this application is not adverse to any party;

NOW, THEREFORE, this permit to appropriate and use State water is issued to the City of Lubbock subject to the following terms and conditions:

1. USE

Permittee is authorized to use within the Brazos River Basin not to exceed 22,910 acre-feet per year of sewage effluent created from the City's use of municipal water purchased from the Canadian River Municipal Water Authority pursuant to Permit No. 1815 and diverted from Lake Meredith, Canadian River Basin in Hutchinson, Moore and Potter Counties, as follows:

- (a) Not to exceed 4480 acre-feet of effluent per year may be supplied to Southwestern Public Service Company for industrial purposes at their Jones Power Plant in Lubbock County about 10 miles southeast of Lubbock; and
- (b) Not to exceed 18,430 acre-feet of effluent may be supplied for the irrigation of 10,000 acres of land in Lubbock and Lynn Counties.

2. SPECIAL CONDITION

This permit and all authorizations herein are subject to the continued effectiveness of a water supply contract between the City of Lubbock and the Canadian River Municipal Water Authority.

This permit is issued subject to all superior and senior water rights in the Canadian River Basin.

Permittee agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this permit.

All other matters requested in the application which are not specifically granted by this permit are denied.

This permit is issued subject to the Rules of the Texas Department of Water Resources and to the right of continual supervision of State water resources exercised by the Department.

TEXAS WATER COMMISSION

/s/ Felix McDonald
Felix McDonald, Chairman

/s/ Lee B. M. Biggart
Lee B. M. Biggart, Commissioner

/s/ John D. Stover
John D. Stover, Commissioner

Date Issued:

June 7, 1983

(SEAL)

Attest:

/s/ Mary Ann Hefner
Mary Ann Hefner, Chief Clerk.